

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

CHRIS, NATHAN, and JOHN)
DOE, individually and on behalf)
of all others similarly situated,)

Plaintiffs,)

v.)

CV419-189

MCKESSON, INC., and)
DAVID CIFU,)

Defendants.)

ORDER

Plaintiffs have objected to the Magistrate Judge's recommendation that their Complaint be dismissed as a shotgun pleading. *See* doc. 4 (Sealed Report and Recommendation), doc. 8 (Objection). In addition to stating their objection, plaintiffs also seek to file an amended complaint, a copy of which is attached to their objection. *See* doc. 8 at 13, doc. 8-1 (Proposed First Amended Complaint). Since the Court agrees that leave to amend is warranted, and the proposed amended complaint is not subject to the defects of the prior versions, the recommendation is moot. Accordingly, the Court **VACATES** its prior recommendation, doc. 4,

GRANTS plaintiffs’ alternative request for leave to file the proposed First Amended Complaint, and **GRANTS, in part,** and **DENIES, in part,** their associated request for an extension of the deadline to serve defendants and to comply with Local Rule 9.1, doc. 8.

Since the prior versions of the complaint remain under seal at the plaintiffs’ request, the Court will not discuss their contents or defects in detail. *See* docs. 2 & 4. The Court is not entirely convinced by plaintiffs’ objection to its determination that the prior proposed pleading was a “shotgun pleading.” *See* doc. 8 at 5-10. In particular, the Court’s concern that the proposed amended complaint included sufficient allegations “not *obviously* connected to any particular cause of action,” *Barmapov v. Amuial*, 986 F.3d 1321, 1325 (11th Cir. 2021) (emphasis added), to obscure the substance of plaintiffs’ claims is not fully alleviated by the explanations in the objection, *see* doc. 8 at 6-9. Regardless, the Court is satisfied that the proposed First Amended Complaint, doc. 8-1, addresses the principal concerns with the prior versions of the pleading.

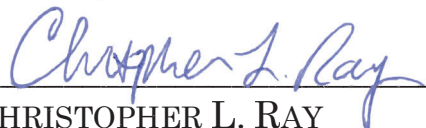
Since plaintiffs are correct that the prior proposed amendment was not filed, they remain entitled to an opportunity to amend as a matter of course. *See* doc. 8 at 10-13; *see also* Fed. R. Civ. P. 15(a)(1). To the extent

that the Court's leave is required, therefore, plaintiffs' request for leave to file their First Amended Complaint is **GRANTED**. Doc. 8. They are directed to file their First Amended Complaint within seven days of the date of this Order.

Finally, the Court agrees that proceedings related to the prior versions of the pleadings constitute good cause for extending the deadline for plaintiffs to serve the defendants. *See* doc. 8 at 14; *see also* Fed. R. Civ. P. 4(m). However, plaintiffs are incorrect that the presumptive period for service, under the Federal Rules is 120 days. *See* doc. 8 at 14. Rule 4(m) was amended in 2015 to shorten the service period to 90 days. *See* Fed. R. Civ. P. 4(m) advisory committee's note to 2015 amendment ("The presumptive time for serving a defendant is reduced from 120 to 90 days."). To the extent that plaintiffs seek a 120-day service period, their motion is, **DENIED in part**. To the extent that it, implicitly, seeks a 90-day service period, it is **GRANTED in part**. The period shall run from plaintiffs' filing of the First Amended Complaint, as provided above. Plaintiffs' deadline for filing the RICO statement, pursuant to S.D. Ga. L. Civ. R. 9.1, shall also run from the date that the First Amended Complaint is filed.

In summary, the Court's prior recommendation that this case be dismissed is **VACATED**.¹ Doc. 4. Plaintiffs' request to file their proposed First Amended Complaint is **GRANTED**. Doc. 8. Plaintiffs are **DIRECTED** to file their First Amended Complaint within seven days of the date of this Order. Plaintiffs' request to extend the period for service of the First Amended Complaint is **GRANTED, in part**, and **DENIED, in part**. Doc. 8. Plaintiffs are **DIRECTED** to effect service on the defendants within 90 days of their filing of the First Amended Complaint. The deadline for plaintiffs to provide the required RICO statement, pursuant to Local Rule 9.1, shall run from the date the First Amended Complaint is filed.

SO ORDERED, this 15th day of April, 2021.


CHRISTOPHER L. RAY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA

¹ The Clerk is **DIRECTED** to terminate plaintiff's response to the Court's original show-cause order as moot. Doc. 3.